

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

No. 2:07-M-6-1BO

UNITED STATES OF AMERICA, )  
                                )  
                                )  
v.                            )                             O R D E R  
                                )  
WILLIAM A. SANDERLIN,    )  
                                )  
Defendant.                  )  
                                )

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This matter is before the Court on sentencing for Defendant William A Sanderlin. On November 25, 2006, the United States Fish and Wildlife Service on Currituck National Wildlife Refuge (“CNWR”) observed a vehicle belonging to Defendant parked in an area on the refuge closed to all motor vehicle traffic. Refuge Officer Robert Vanderpool cited Defendant for Trespass on a National Wildlife Refuge With a Motor Vehicle, in violation of 16 U.S.C. § 406(k) and 50 C.F.R. § 26.21(a). After entering a plea of not guilty, a bench trial commenced on January 8, 2007. Defendant was found guilty of the charged conduct, and a presentence report was prepared.

As part of the presentence investigation, the United States Probation Office prepared a report detailing the impact of motor vehicle traffic on the CNWR. In sum, off-road vehicles have impacted the beach environment by disrupting a delicate ecological community. As vehicles drive on the beach, they disrupt sediment cycles, cause erosion, and destroy vegetation and plant life. Vehicular traffic has also crushed endangered species within their tracks.

The CNWR is located in the northeastern corner of North Carolina in Currituck County. The Refuge currently manages 4,570 acres in fee title ownership and 3,931 acres in conservation

easements. The Refuge was established on August 2, 1983, by the Migratory Bird Conservation Commission for the purpose of protecting and conserving migratory birds and other wildlife resources. Under Article IV, Section 3, Clause 2, of the United States Constitution, the Congress may make all necessary rules and regulations to administer federal lands. Delegated authority is given to the United States Fish and Wildlife Service by Congress to make and enforce regulations in all areas of the National Wildlife Refuge System, including CNWR, pursuant to the National Wildlife Refuge Administration Act and the Refuge Recreation Act. 16 U.S.C. §§ 6680dd, et seq; 16 U.S.C. § 460.

The United States asserts proprietary jurisdiction over a total of 4,570 acres in fee title ownership in the CNWR including appropriately 400 acres of lands generally referred to as the beach zone within the eastern edge of Swan Island and Monkey Island. The beach zone is fronted by the Atlantic Ocean, which forms eastern boundary of the CNWR, stretching approximately three miles in length over both tracts combined. The eastern boundary is defined as beginning at the mean high water mark of the Atlantic Ocean. The federal government owns all right, title and interest in those lands beginning at the mean high water mark of the Atlantic Ocean and extending westward within the boundaries of the CNWR as defined by the acquiring documents.

The refuge is home to several endangered and protected species. Loggerhead sea turtles, *caretta caretta*, were listed as threatened under the Endangered Species Act of 1978. The Atlantic Coast from North Carolina to Florida provides the ideal nesting area from mid-May to August. When nesting, the female crawls onto the beach at night and lays her eggs in the sand. After she covers the eggs, the female treks back to the sea. Sixty days later the hatchlings dig

out of the sand for the first time and repeat the journey to the sea. Those turtles seeking to nest at the CNWR must cross the North Beach Strand three times encountering traffic and deep tire ruts that may prove insurmountable to young hatchlings. Despite conservation efforts, the North Carolina population of loggerheads had not increased. Live loggerhead sea turtles have not been observed at the CNWR since July 2005.

Piping plovers, *charadrius melanotos*, were designated as endangered under the Endangered Species Act of 1973. Piping plovers run and move about from the primary dune to string of debris stranded by the last high tide. Such movement puts the chicks in danger from vehicular impact. Secondary impacts on plover habitat by off-road vehicle usage have been documented to include the destruction of their food source and impacts on their reproduction. As recently as 2006, this bird was documented on the CNWR.

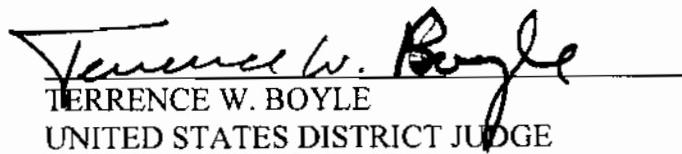
In 1993, the United States Fish and Wildlife Service listed as threatened the Seabeach amaranth, *amaranthus pumilus*, a summer annual plant native to the Atlantic coast. It is the only vascular plant whose habitat is near the ocean. The plant thrives in overwash flats, foredunes and the upper strands of non-eroding beaches. When a vehicle's wheels agitate the soil, the soil dries out and nutrients are lost. The dune building plant may not be able to survive without such nutrients. The last known seabeach amaranth plant observed on the CNWR was in 1999.

Although not endangered, the refuge is home to many species of shorebirds that nest on open beaches in dunes. Many of these birds forage on ghost grabs, who also are threatened by vehicular traffic. Finally, beach sediments, dunes, and delicate vegetation are eroded by the disruption of soil compaction from vehicular traffic.

Defendant's vehicle was found on refuge property, not on the North Beach Strand.

Having fully considered the report, Defendant is sentenced to pay a fine of \$200 and a special assessment.

SO ORDERED, this 29<sup>TH</sup> day of May, 2007.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE